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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,371	04/04/2001	Jason P. McDevitt	KCX-250 (15306)	2875

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EXAMINER

HAMILTON, LALITA M

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 01/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,371

Applicant(s)

MCDEVITT ET AL.

Examiner

Hamilton

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Sharon N. Thornton
SHARON N. THORNTON
PATENT ANALYST

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

31. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-17, 19-20, and 24-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Zook ('914).

Zook discloses a tapered tubular bandage comprising a nonwoven fibrous web (48) an (col5, lines 34-36), spunbonded/meltblown/spunbonded fiber webs, an elastic layer and non-elastic layer (col.3, lines 44-60), a thermoplastic polymer, a film, foam, stretch-bonded laminate, neck-bonded laminate, a liquid impermeable barrier (col.3, lines 50-55), anti-microbial agents, anti-inflammatory agents, a topical analgesic, corticosteroid, dimethyl sulfoxide, and an anti-fungal agent (col.4, line 55 to line 5, line 13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zook in view of Abuto ('021).

Zook discloses the invention substantially as claimed; however, Zook does not disclose pulp fibers or fibrous material. Abuto teaches a bandage having elastic and nonelastic layers with pulp fibers and fibrous material (col.6, lines 14-20 and 38-40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate pulp fibers and fibrous material into the invention disclosed by Zook to provide a means of allowing the elastomeric material to be stretched and contract in order to provide form-fitting properties to the device.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zook in view of Tanihara ('229).

Zook discloses the invention substantially as claimed; however, Zook does not disclose chitosan. Tanihara teaches a bandage having chitosan therein (col.7, lines 20-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate chitosan into the bandage disclosed by Zook to provide an alternative means of deterring infection in the area being treated.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zook in view of Satoh ('758).

Zook discloses the invention substantially as claimed; however, Zook does not disclose a cyclooxygenase inhibitor. Satoh teaches a formulation for application to the skin comprising cyclooxygenase (col.13, lines 13-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate cyclooxygenase inhibitors into the device disclosed by Zook to provide an alternative means of deterring infection in the area being treated.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Roth ('974), Scholl ('796), Loebeck ('541), Sullivan ('245), Bulley ('851), and Benson ('514) teach tubular bandages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

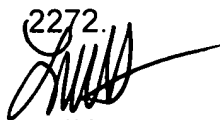
The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

2272.

LMH

January 26, 2002


JEANETTE CHAPMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700